

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2392**

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**Introduced by Assembly Member Torrico**

February 19, 2010

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An act to amend ~~Section 3050~~ Sections 2933, 2933.3, and 2933.6 of the Penal Code, relating to parole.

LEGISLATIVE COUNSEL'S DIGEST

AB 2392, as amended, Torrico. ~~Parole: substance abuse programs. Inmates: incentive credits.~~

*Existing law provides that it is the intent of the Legislature that persons sentenced to prison for a determinate sentence serve the entire sentence imposed by the court, except for a reduction in the time served in the custody of the Secretary of the Department of Corrections and Rehabilitation, as specified. Existing law provides that except regarding certain prisoners who are limited to 15% credit against sentenced time, for every 6 months of continuous incarceration, a prisoner shall be awarded credit reductions from his or her term of confinement of 6 months. Existing law provides that prisoners who are denied the opportunity to earn credits for the commission of specified crimes or misconduct shall be awarded no credit reduction pursuant to these provisions.*

*The bill would instead provide that, except for those prisoners subject to the 15% limitation on credits noted above, for every 6 months of full-time performance in a credit qualifying program, a prisoner shall be awarded credit reductions of 6 months. The bill would provide that prisoners who refuse to accept a full-time credit qualifying assignment shall be awarded no credit reduction. The bill would provide for the*

*earning of credit reductions for prisoners who voluntarily accept a half-time credit qualifying assignment and prisoners who are willing to participate in a full-time credit qualifying assignment but who are either not assigned to a full-time assignment or are assigned to a program for less than full-time.*

*Existing law places a limit on the number of days of lost credit that may be restored for the commission or attempted commission of certain crimes by prisoners.*

*This bill would provide that in order for the limitation on the restoration of credits to apply, the crime committed or attempted must be a felony.*

*The bill would make other conforming changes.*

~~Existing law provides that any inmate under the custody of the Department of Corrections and Rehabilitation who is not currently serving and has not served a sentence for certain crimes, who has successfully completed an in prison drug treatment program, upon release from state prison, shall, whenever possible, be entered into a residential aftercare drug treatment program, as specified.~~

~~This bill would make a nonsubstantive change to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 2933 of the Penal Code is amended to*  
 2     *read:*  
 3     2933. (a) It is the intent of the Legislature that persons  
 4     convicted of a crime and sentenced to the state prison under Section  
 5     1170 serve the entire sentence imposed by the court, except for a  
 6     reduction in the time served in the custody of the Secretary of the  
 7     Department of Corrections and Rehabilitation ~~pursuant to this~~  
 8     ~~section and Section 2933.05~~ *for active participation in work,*  
 9     *training, education, or substance abuse programs established by*  
 10    *the secretary. Worktime credits shall apply for performance in*  
 11    *work assignments and performance in elementary, high school,*  
 12    *or vocational education programs. Enrollment in a two- or*  
 13    *four-year college program leading to a degree shall result in the*  
 14    *application of time credits equal to that provided in Section 2931.*  
 15    ~~(b) For~~

1 For every six months of ~~continuous incarceration~~ full-time  
2 performance in a credit qualifying program, as designated by the  
3 secretary, a prisoner shall be awarded *worktime* credit reductions  
4 from his or her term of confinement of six months. A lesser amount  
5 of credit based on this ratio shall be awarded for any lesser period  
6 of ~~continuous incarceration~~. ~~Credit performance.~~ Less than  
7 maximum credit should be awarded pursuant to regulations adopted  
8 by the secretary for prisoners not assigned to a full-time credit  
9 qualifying program. ~~Prisoners who are~~ Every prisoner who refuses  
10 to accept a full-time credit qualifying assignment or who is denied  
11 the opportunity to earn *worktime* credits pursuant to subdivision  
12 (a) of Section 2932 shall be awarded no *worktime* credit reduction  
13 pursuant to this section. Every prisoner who voluntarily accepts  
14 a half-time credit qualifying assignment in lieu of a full-time  
15 assignment shall be awarded *worktime* credit reductions from his  
16 or her term of confinement of three months for each six-month  
17 period of continued performance. Except as provided in subdivision  
18 (a) of Section 2932, every prisoner willing to participate in a  
19 full-time credit qualifying assignment but who is either not assigned  
20 to a full-time assignment or is assigned to a program for less than  
21 full-time, shall receive no less credit than is provided under Section  
22 2931. Under no circumstances shall any prisoner receive more  
23 than six months' credit reduction for any six-month period under  
24 this section.

25 ~~(e)~~

26 (b) ~~Credit~~ *Worktime credit* is a privilege, not a right. ~~Credit~~  
27 *Worktime credit* must be earned and may be forfeited pursuant to  
28 the provisions of Section 2932. Except as provided in subdivision  
29 (a) of Section 2932, every eligible prisoner shall have a reasonable  
30 opportunity to participate in a full-time credit qualifying assignment  
31 in a manner consistent with institutional security and available  
32 resources.

33 ~~(d)~~

34 (c) Under regulations adopted by the Department of Corrections  
35 and Rehabilitation, which shall require a period of not more than  
36 one year free of disciplinary infractions, *worktime* credit which  
37 has been previously forfeited may be restored by the secretary.  
38 The regulations shall provide for separate classifications of serious  
39 disciplinary infractions as they relate to restoration of credits, the  
40 time period required before forfeited credits or a portion thereof

1 may be restored, and the percentage of forfeited credits that may  
2 be restored for these time periods. For credits forfeited *for*  
3 *commission of a felony* as specified in paragraph (1) of subdivision  
4 (a) of Section 2932, the Department of Corrections and  
5 Rehabilitation may provide that up to 180 days of lost credit shall  
6 not be restored and up to 90 days of credit shall not be restored  
7 for a forfeiture resulting from conspiracy or attempts to commit  
8 one of those acts. No credits may be restored if they were forfeited  
9 for a serious disciplinary infraction in which the victim died or  
10 was permanently disabled. Upon application of the prisoner and  
11 following completion of the required time period free of  
12 disciplinary offenses, forfeited credits eligible for restoration under  
13 the regulations for disciplinary offenses other than serious  
14 disciplinary infractions punishable by a credit loss of more than  
15 90 days shall be restored unless, at a hearing, it is found that the  
16 prisoner refused to accept or failed to perform in a credit qualifying  
17 assignment, or extraordinary circumstances are present that require  
18 that credits not be restored. "Extraordinary circumstances" shall  
19 be defined in the regulations adopted by the secretary. However,  
20 in any case in which *worktime* credit was forfeited for a serious  
21 disciplinary infraction punishable by a credit loss of more than 90  
22 days, restoration of credit shall be at the discretion of the secretary.

23 The prisoner may appeal the finding through the Department of  
24 Corrections and Rehabilitation's review procedure, which shall  
25 include a review by an individual independent of the institution  
26 who has supervisory authority over the institution.

27 ~~(e) A prisoner sentenced to the state prison under Section 1170~~  
28 ~~shall receive one day of credit for every day served in a county~~  
29 ~~jail, city jail, industrial farm, or road camp after the date he or she~~  
30 ~~was sentenced to the state prison as specified in subdivision (f) of~~  
31 ~~Section 4019.~~

32 ~~(f)~~

33 ~~(d)~~ The provisions of subdivision ~~(d)~~ (c) shall also apply in cases  
34 of credit forfeited under Section 2931 for offenses and serious  
35 disciplinary infractions occurring on or after January 1, 1983.

36 SEC. 2. Section 2933.3 of the Penal Code is amended to read:

37 2933.3. (a) Notwithstanding any other law, any inmate  
38 assigned to a conservation camp by the Department of Corrections  
39 and Rehabilitation, who is eligible to earn one day of *worktime*  
40 credit for every one day of ~~incarceration~~ *service* pursuant to Section

1 2933 shall instead earn two days of *worktime* credit for every one  
2 day of service. ~~The~~ *The* enhanced *worktime* credit authorized  
3 pursuant to this subdivision shall only apply to ~~those prisoners~~  
4 *eligible service performed* after January 1, 2003.

5 (b) Notwithstanding any other law, any inmate who has  
6 completed training for assignment to a conservation camp or to a  
7 correctional institution as an inmate firefighter or who is assigned  
8 to a correctional institution as an inmate firefighter and who is  
9 eligible to earn one day of credit for every one day of incarceration  
10 pursuant to Section 2933 shall instead earn two days of credit for  
11 every one day served in that assignment or after completing that  
12 training.

13 (c) In addition to credits granted pursuant to subdivision (a) or  
14 (b), inmates who have successfully completed training for  
15 firefighter assignments shall receive a credit reduction from his or  
16 her term of confinement pursuant to regulations adopted by the  
17 secretary.

18 (d) The credits authorized in subdivisions (b) and (c) shall only  
19 apply to inmates who are eligible after July 1, 2009.

20 *SEC. 3. Section 2933.6 of the Penal Code is amended to read:*

21 2933.6. (a) Notwithstanding any other law, a person who is  
22 placed in a Security Housing Unit, Psychiatric Services Unit,  
23 Behavioral Management Unit, or an Administrative Segregation  
24 Unit for misconduct described in subdivision (b) or upon validation  
25 as a prison gang member or associate is ineligible to earn *work*  
26 *credits or good behavior* credits pursuant to Section 2933 or  
27 2933.05 during the time he or she is in the Security Housing Unit,  
28 Psychiatric Services Unit, Behavioral Management Unit, or the  
29 Administrative Segregation Unit for that misconduct.

30 (b) This section applies to the following offenses:

31 (1) Murder, attempted murder, and solicitation of murder. For  
32 purposes of this paragraph, solicitation of murder shall be proven  
33 by the testimony of two witnesses, or of one witness and  
34 corroborating circumstances.

35 (2) Manslaughter.

36 (3) Assault or battery causing serious bodily injury.

37 (4) Assault or battery on a peace officer or other nonprisoner  
38 which results in physical injury.

39 (5) Assault with a deadly weapon or caustic substance.

1 (6) Rape, attempted rape, sodomy, attempted sodomy, oral  
2 copulation, or attempted oral copulation accomplished against the  
3 victim's will.

4 (7) Taking a hostage.

5 (8) Escape or attempted escape with force or violence.

6 (9) Escape from any departmental prison or institution other  
7 than a camp or reentry facility.

8 (10) Possession or manufacture of a deadly weapon or explosive  
9 device.

10 (11) Arson involving damage to a structure.

11 (12) Possession of flammable, explosive material with intent to  
12 burn any structure or property.

13 (13) Solicitation of assault with a deadly weapon or assault by  
14 means of force likely to produce great bodily injury, arson, or a  
15 forcible sex act.

16 (14) Intentional destruction of state property in excess of four  
17 hundred dollars (\$400) during a riot or disturbance.

18 (c) This section does not apply if the administrative finding of  
19 the misconduct is overturned or if the person is criminally  
20 prosecuted for the misconduct and is found not guilty.

21 ~~SECTION 1. Section 3050 of the Penal Code is amended to~~  
22 ~~read:~~

23 ~~3050. (a) Notwithstanding any other provision of law, an~~  
24 ~~inmate under the custody of the Department of Corrections and~~  
25 ~~Rehabilitation who is not currently serving and has not served a~~  
26 ~~prior indeterminate sentence or a sentence for a violent felony, a~~  
27 ~~serious felony, or a crime that requires him or her to register as a~~  
28 ~~sex offender pursuant to Section 290, who has successfully~~  
29 ~~completed an in-prison drug treatment program, upon release from~~  
30 ~~state prison, shall, whenever possible, be entered into a 150-day~~  
31 ~~residential aftercare drug treatment program sanctioned by the~~  
32 ~~department.~~

33 ~~(b) As a condition of parole, if the inmate successfully completes~~  
34 ~~150 days of residential aftercare treatment, as determined by the~~  
35 ~~Department of Corrections and Rehabilitation and the aftercare~~  
36 ~~provider, the parolee shall be discharged from parole supervision~~  
37 ~~at that time.~~

- 1     ~~(e) Commencing with 2008, the department shall report annually~~
- 2     ~~to the Joint Legislative Budget Committee and the State Auditor~~
- 3     ~~on the effectiveness of these provisions, including recidivism rates.~~

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